



September 22, 1999

Ms. Helen K. Bright
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2981

OR99-2648

Dear Ms. Bright:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 127522.

The University of Texas System (the "system") received a request for a variety of information relating to the University of Texas at Dallas ("UTD"). Specifically, the requestor asks for UTD's travel and expense reimbursement records, a specified audit report, record retention policy manual, current Administrative Policies and Procedures Manual, Audit Manual, and Police Manual. In response to the request, you submit to this office for review the information which you assert is responsive. You contend that the submitted records are excepted from required public disclosure by section 552.103 of the Government Code. We have considered the exception and arguments you raise, and have reviewed the information submitted.¹

Section 552.103(a), the "litigation exception," excepts from disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

The system has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.--Austin 1997, no pet.); *Heard v. Houston Post Co.*,

¹You have also submitted to this office information that apparently was sent for informational purposes only. In this ruling, we do not address the public disclosure of that information.

684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The system must meet both prongs of this test for information to be excepted under section 552.103(a).

In this instance, you have supplied pleadings in the case *Dr. Gurumurthy Kalyanaram v. University of Texas System, et al.*, No. A 99-CA-091-JN (W.D. Tex). You inform us that this case is pending before the United States District Court for the Western District of Texas. Thus, you have established that litigation is pending. You contend that submitted records relate to this pending litigation.² However, based on the submitted records and your arguments, we believe that you have not established the requisite relatedness of the requested information to the pending litigation for purposes of section 552.103.³ As you have not adequately explained how the submitted information is related to the pending litigation, we conclude that you have not established that the submitted information is excepted from disclosure by section 552.103. Therefore, the submitted records may not be withheld under section 552.103(a), and must be released to the public.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref: ID# 127522

²Although you represent that you "have requested that [the Assistant Attorney General] contact the Open Records Division directly to confirm that the documents sought are a material part of this pending litigation," our office did not receive any additional information to establish the relatedness of the records to the pending litigation, in support of the section 552.103.

³A general claim that an exception applies to an entire document, when the exception is clearly not applicable to all of the information in that document, does not comport with the procedural requirements of Chapter 552 of the Government Code. Open Records Decision No. 150 (1977).

Encl. Submitted documents

cc: Mr. S. Michael McColloch
McColl & McColloch
2000 Thanksgiving Tower
1600 Elm Street
Dallas, Texas 75201-4716
(w/o enclosures)